IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.2839 OF 1990

The Board of Trustees of the Port of Bombay. ..Plaintiffs.

V/s.

M/s.Kankariya Chemical Ind.Ltd. & Anr. ..Defendants.

Mr.U.J.Makhija a/w.Ms.Kaneez Manjee i/b.Motiwala & Co. for Plaintiffs.

Mr.Prakash Shah a/w. Pritesh Rajgor i/b. P.D.S.Legal for Defendant No.2.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 29, 2007.

P.C. :

1. Counsel for the parties handed in Minutes of the Order whereunder the Defendant No.2 is inviting decree on admission in so far as principal amount is concerned. With regard to the interest component, the Plaintiffs have claimed 15% per annum from the date of institution of the Suit till realisation of the amount. The Defendant No.2 submits that since the Defendants are inclined to settle without any demur, the Court may take lenient view of the matter and award 6% interest per annum, instead of 15% per annum, which course has been adopted in the some matters disposed of by this Court on that basis.

2. Counsel for the Plaintiffs submits that he has no instruction to accede to the request for reducing rate of interest at 6% per annum. However, he fairly submits that in some cases, the Suits have been disposed of in favour of the Plaintiffs by awarding interest at the rate of 6% per annum as is submitted by the Counsel for the Defendant No.2.

3. Since, in the past, some matters have been disposed of by awarding 6% interest per annum, I am inclined to accept the request of the Defendants to pass decree on admission in so far as principal amount is concerned and award further interest at the rate of 6% per annum on the principal amount(suit claim).

4. This course is adopted in the peculiar facts of the present case. Inasmuch as, inspite of the decree passed against the Defendant No.1, who was principally liable to pay the suit claim amount, the said decree could not be taken to its logical end so far. The decretal amount is still to be recovered. The Defendant No.2 has come forward to invite decree on admission provided, the rate of interest is reduced. Moreover, if the decree as invited by the Defendant No.2 is passed, the Plaintiffs will be entitled to withdraw the amount deposited by the

Defendant No.2 in this Court forthwith; and also get the remainder decretal amount in terms of the present order recovered forthwith as the Defendant No.2 assures to fully satisfy the decree within four weeks from today.

5. Accordingly, Suit is disposed of in terms of Minutes of Order against the Defendant No.2.

(A.M.KHANWILKAR,J)